

REMARKS

Claims 1-9 are pending in the application as amended. Claim 1 has been amended to make it clear that only the latter supper bracket is being claimed. Claims 2 and 4-9 have been amended to correct ambiguities and for clarification, as requested by the Examiner. Claim 10 has been canceled. The Abstract of the Disclosure as been amended to remove legal phraseology. Accordingly, no new matter has been added.

The Examiner has indicated that the claim of Foreign Priority has been acknowledged but the certified copy of the Priority Document has not been received. Applicant notes that a claim of Foreign Priority and Transmittal of Priority Document was filed with the U.S. Patent and Trademark Office (PTO) on August 13th, 2004. It is noted that the receipt of such document is evidenced in the Image File Wrapper System. Accordingly, it is respectfully requested that the Examiner acknowledge receipt of the certified copy of the Foreign Priority Document.

The Examiner has noted that there is legal phraseology in the Abstract of the Disclosure. Submitted herewith is a new Abstract of the Disclosure wherein, *inter alia*, the words "means" and "is disclosed" have been removed. It is respectfully submitted that the new Abstract of the Disclosure is in proper compliance with PTO rules.

The Examiner has objected to claim 10 because it cannot rely on the specification and drawings alone. Claim 10 has been cancelled, thereby rendering this objection moot.

The Examiner has rejected claims 1-9 for being indefinite for failing to particularly point out and distinctly claim subject matter which Applicant regards as the invention. The Examiner

has set forth several grounds for the rejection, each of which is separately addressed below.

Applicant respectfully traverses this rejection in view of the foregoing amendment.

The Examiner contends that claims 1-3 are inconsistent between the preamble and the body of the claim because it is unclear if it is the bracket that is being claimed or the bracket in combination with the gutter and building. Applicant has amended claims 1 and 2 to make it clear that only the bracket is being claimed. The Examiner has rejected claim 2 because the phrase "suitable means" is vague and indefinite. Applicant has amended claim 2 to delete the reference to "suitable means". Claim 2 has also been amended to delete the phrases "such as", "or the like", and "or," at the Examiner's request.

The Examiner has also rejected claim 5 because it includes the phrases "such as", "especially", and "or" which he considers improper. Claim 5 has been amended to correct the noted issues.

The Examiner has objected to the phrase "any suitable process" in claim 6. This phrase in claim 6 has been deleted.

The Examiner has rejected claim 9 because he contends the phrase "by such means" is vague and indefinite. Applicant has amended claim 9 to correct the noted concern by the Examiner.

In view of the foregoing amendment, Applicant respectfully requests that the Examiner withdraw the rejection of claims 1-9 under 35 USC § 112.

The Examiner has rejected claims 1-9 under 35 USC § 102(b) has been anticipated by US Patent No. 4,940,198 (de Wilde). The Examiner contends that de Wilde sets forth a bracket

including a first region capable of being attached to a building, a second region capable of spanning a gutter; and a third region capable of receiving the rung of a ladder. The Examiner contends that the claims include product-by-process limitations which are not given patentable weight. Applicant respectfully traverses this rejection.

The de Wilde patent is directed to a bracket for fixing a gutter to an eave section of a building. The bracket is to be fixed to a corrugated sheet 1 of a roof and includes an elongated supporting part 3 which is fitted against the bottom side of a corrugated ridge 2 of a corrugated sheet 1. The bracket is used to secure the gutter to the corrugated sheet 1 of the roof. It is noted that the gutter runs transverse to the corrugated sections of the corrugated sheet 1. In summary, de Wilde is directed to a bracket for a corrugated roof for mounting a gutter to the bracket.

Claim 1 as amended recites, *inter alia*, a latter support bracket for receiving a rung of a ladder intended to be placed against the gutter of a building and thus restraining the ladder, from sideways or downwards movement, the bracket comprising a first region adapted to be secured to a rigid portion of the building, a second legion adapted to span the gutter, and a third region in the form of a cradle adapted to receive the rung of the ladder.

De Wilde does not disclose each and every element of claim 1. Claim 1 recites that the second region is adapted to span the gutter. In deWilde, the second region identified by the Examiner runs perpendicular to the length of the gutter. Therefore, it does not span the gutter. Moreover, the element identified by the Examiner as the bracket in deWilde, is, in fact, the roof itself. The present invention is directed to a bracket which is secured to a roof. That is, it cannot be the roof itself. Thus, de Wilde does not disclose each and every element of claim 1. Claims 2-9 all dependent upon claim 1 and are similarly patentable over de Wilde for the reasons stated

with respect to claim 1. It is respectfully requested that the Examiner withdraw the rejection of claims 1-9 under 35 USC § 102.

The Examiner has also rejected claims 1-9 under 35 USC § 102(b) as being anticipated by United Kingdom Patent No. 2,118,236 (Lee *et al.*). The Examiner contends that Lee *et al.* discloses a bracket comprising a first region capable of being attached to a building; a second region capable of spanning a gutter, and the third region capable of receiving the rung of a ladder. The Examiner contends that first region is the form of a plane that is bendable and includes securing points. The Examiner notes that product-by-process limitations in an apparatus claim are not given patentable weight. Applicant respectfully traverses this rejection.

Lee *et al.* is directed to a ladder attachment for preventing sideways slippage or swinging of a ladder. The attachment includes a pair of parallel curved or angled supporting arms 11 and a transverse pressure plate 18 which is pivotably attached to the respective ends of the arms 11 and projects laterally there beyond. The arms includes hooks 24, 25 for securement of the attachment 10 to the ladder 30. The pressure plate 18 merely rests on the surface of the building, such as the roof. That is, the attachment and/or pressure plate 18 is not secured to the building.

Claim 1 as amended recites, *inter alia*, a ladder support bracket for receiving a rung of a ladder intended to be placed against the gutter of a building and thus restraining the ladder from sideways or downwards movement, the bracket comprising a first region adapted to be secured to a rigid portion of the building, a second region adapted to span the gutter, and a third region in the form of a cradle adapted to receive the rung of the ladder.

Lee *et al.* does not disclose each and every element set forth in claim 1. Claim 1 recites that the bracket includes a first region adapted to being secured to a rigid portion of the building.

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The Examiner has identified the pressure plate 18 as being the first region of claim 1. However, the pressure plate 18 does not get secured to the building. It merely rests on the building. Since claim 1 recites that the first region is adapted to be secured to a rigid portion of the building, this is distinguishable over the Lee *et al.* because the pressure plate of Lee *et al.* does not get secured to the building but merely rests on it. Accordingly, Lee *et al.* does not disclose each and every element of claim 1. Claims 2 through 9 are dependent upon claim 1 and are similarly patentable for the reasons set forth above with respect to claim 1. Therefore, Applicant respectfully requests that the rejection of claims 1-9 be withdrawn.

In view of the foregoing amendment and remarks, it is respectfully submitted that the present application, including claims 1-9, is in condition for allowance.

Respectfully submitted,

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Enclosure: Petition for three-month Extension of Time